

§ 40.204 [Reserved]**§ 40.205 Applicant for immigrant visa under INA 203(c).**

An alien shall be ineligible to receive a visa under INA 203(c) if the alien does not have a high school education or its equivalent, as defined in 22 CFR 42.33(a)(2), or does not have, within the five years preceding the date of application for such visa, at least two years of work experience in an occupation which requires at least two years of training or experience.

[59 FR 55045, Nov. 3, 1994. Redesignated at 61 FR 59184, Nov. 21, 1996]

§ 40.206 Frivolous applications [Reserved]**§§ 40.207–40.210 [Reserved]****Subpart M—Waiver of Ground of Ineligibility**

SOURCE: 56 FR 30422, July 2, 1991, unless otherwise noted. Redesignated at 61 FR 59184, Nov. 21, 1996]

§ 40.301 Waiver for ineligible non-immigrants under INA 212(d)(3)(A).

(a) *Report or recommendation to Department.* Except as provided in paragraph (b) of this section, consular officers may, upon their own initiative, and shall, upon the request of the Secretary of State or upon the request of the alien, submit a report to the Department for possible transmission to the Attorney General pursuant to the provisions of INA 212(d)(3)(A) in the case of an alien who is classifiable as a nonimmigrant but who is known or believed by the consular officer to be ineligible to receive a nonimmigrant visa under the provisions of INA 212(a), other than INA 212(a) (3)(A), (3)(C) or (3)(E).

(b) *Recommendation to designated INS officer abroad.* A consular officer may, in certain categories defined by the Secretary of State, recommend directly to designated INS officers that the temporary admission of an alien ineligible to receive a visa be authorized under INA 212(d)(3)(A).

(c) *Attorney General may impose conditions.* When the Attorney General authorizes the temporary admission of an

ineligible alien as a nonimmigrant and the consular officer is so informed, the consular officer may proceed with the issuance of a nonimmigrant visa to the alien, subject to the conditions, if any, imposed by the Attorney General.

PART 41—VISAS: DOCUMENTATION OF NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED**Subpart A—Passport and Visas Not Required for Certain Nonimmigrants****Sec.**

- 41.1 Exemption by law or treaty from passport and visa requirements.
- 41.2 Waiver by Secretary of State and Attorney General of passport and/or visa requirements for certain categories of non-immigrants.
- 41.3 Waiver by joint action of consular and immigration officers of passport and/or visa requirements.

Subpart B—Classification of Nonimmigrants

- 41.11 Entitlement to nonimmigrant status.
- 41.12 Classification symbols.

Subpart C—Foreign Government Officials

- 41.21 Foreign Officials—General.
- 41.22 Officials of foreign governments.
- 41.23 Accredited officials in transit.
- 41.24 International organization aliens.
- 41.25 NATO representatives, officials, and employees.
- 41.26 Diplomatic visas.
- 41.27 Official visas.

Subpart D—Temporary Visitors

- 41.31 Temporary visitors for business or pleasure.
- 41.32 Nonresident alien Mexican border crossing identification cards; combined border crossing identification cards and B-1/B-2 visitor visa.
- 41.33 Nonresident alien Canadian border crossing identification card (BCC).

Subpart E—Crewman and Crew-List Visas

- 41.41 Crewmen.
- 41.42 Crew-list visas.

Subpart F—Business and Media Visas

- 41.51 Treaty trader or treaty investor.
- 41.52 Information media representative.
- 41.53 Temporary workers and trainees.
- 41.54 Intracompany transferees (executives, managers, and specialists).
- 41.55 Aliens with extraordinary ability.